

Message Text

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ORIGIN TRSE-00

INFO OCT-01 EA-11 ADP-00 L-03 AID-20 CIAE-00 COME-00 EB-11

FRB-02 INR-10 NSAE-00 RSC-01 XMB-07 OPIC-12 CIEP-02

LAB-06 SIL-01 OMB-01 /088 R

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EB/ IFD/ OMA: MILAM

EA/ IMS: BESHOR (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA

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E. O. 11652: GDS

TAGS: EFIN

SUBJ: TAX CONVENTION

REF: EMTEL 4136, 4/6/73

REPORT IN REFTEL COINCIDES WITH OTHER SIGNS OF INCREASED GOI INTEREST IN TAX TREATY.

MINISTER COUNSELOR ADIWOSO OF WASHINGTON EMBASSY
GOI CALLED ON GORDON AND MRS. FIELD, TREASURY, TO PROPOSE
SIGNATURE OF AGREEMENT. GORDON INFORMED ADIWOSO OF
DECEMBER DEVELOPMENTS WHEN SIGNATURE SEEMED IMMINENT,
AND INQUIRED WHETHER GOI HAS ACCEPTED AGREEMENT AS TRANS-
MITTED LAST DECEMBER. ADIWOSO NOT CLEAR BUT PROMISED TO
GET BACK TO GOI FOR INSTRUCTION. ALSO BYRNE OF FREEPORT
CALLED ON GORDON TO REPORT ON RECENT VISIT TO INDONESIA
AND IMPRESSION THAT INDONESIA IS CLOSE TO AGREEMENT WITH
US POSITION.

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IN VIEW OF REFTEL, GOI POSITION ON OPIC AND EXIM NO LONGER AN OBSTACLE TO AGREEMENT. A FORMULATION WHICH DOES NOT REQUIRE SPECIFIC IDENTIFICATION OF THESE TWO ORGANIZATIONS CAN BE RPRODUCED. AS FOR THE PERMANENT ESTABLISHMENT ARTICLE, RETENTION OF THE WORD " SOLELY" AS IN THE OECD MODEL DOES INDEED CHANGE THE MEANING. US EFFORTS TO HAVE IT DELETED WERE UNSUCCESSFUL IN THE OECD, BECAUSE UNANIMOUS AGREEMENT NECESSARY. HOWEVER, ALL US TREATIES BASED ON MODEL HAVE EXCLUDED THE WORD " SOLELY."

INFORMATION REQUESTED IN PARA 3 OF REFTEL IS AS FOLLOWS:

TREATIES WHICH EXEMPT EXIM AND OPIC (NOT BY NAME):

1. SPECIAL EXEMPTION FOR GOVERNMENT AND GOVERNMENT INSTRUMENTALITIES: BELGIUM, FRANCE, JAPAN (CITES EXIM), TRINIDAD
2. GENERAL EXEMPTION OF INTEREST: AUSTRIA, DENMARK FINLAND, GERMANY, GREECE, IRELAND, ITALY, LUXEMBOURG, NETHERLANDS, NETHERLANDS ANTILLES, NORWAY, SWEDEN, U. K.

BOTH EXIM AND OPIC ARE INSTRUMENTALITIES OF THE UNITED STATES EXEMPT FROM TAX UNDER INTERNAL REVENUE CODE SECTION 501(C)(1).

UNDERSTAND THAT CONSIDERABLE INVESTMENT IN INDONESIA BEING DELAYED IN PART BY ABSENCE OF TAX TREATY, ACCORDING TO REPRESENTATIONS FROM INTERESTED US ENTERPRISES. ACCORDINGLY, TREASURY PREPARED TO MAKE SPECIAL EFFORT TO CONCLUDE AGREEMENT AS EARLY AS POSSIBLE. WILL TRY TO REVISE SCHEDULE TO PERMIT MEETING IN JULY. WOULD THAT BE ACCEPTABLE? EARLIER SESSION IN JAKARTA IMPOSSIBLE INVIEW OF OTHER COMMITMENTS; ALTHOUGH EARLIER MEETING IN WASHINGTON IS FEASIBLE.

MODIFICATION IN LANGUAGE TO EXEMPT EXIM AND OPIC BEING DRAFTED AND WILL BE TRANSMITTED. WILL ALSO SEEK TO FORMULATE ALTERNATIVE WITH RESPECT TO STATE AND LOCAL TAXES. US WOULD PREFER TO PRESERVE PERMANENT ESTABLISHMENT LANGUAGE AS AT PRESENT. INSERTION OF " SOLELY" IS INCONSISTENT WITH PURPOSE OF ARTICLE AND OF THE LANGUAGE OF THE SUB-PARAGRAPHS. FOR EXAMPLE, IT WOULD BE IMPOSSIBLE TO HAVE PARAGRAPH (3)(A) OF ARTICLE V OPERATE WITHOUT CONDITIONS IN LIMITED OFFICIAL USE

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(3)(B) ALSO BEING PRESENT.

FINALLY, US WOULD LIKE TO DISCUSS FURTHER AIRLINE EXEMPTION AND TO REOPEN LIMITATION ON EMPLOYEE TAXES, WHICH INCREAS-
INGLY IMPORTANT. LATTER ISSUE OVERLOOKED IN DECEMBER DUE TO
GOI URGENCY TO ACT. RUSH

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*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

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